

**REMARKS**

In response to the outstanding Office Action dated January 15, 2004, Applicants have amended claims 1, 4, 6 and 7. Claim 1 has been amended to incorporate the limitations of claim 2. Claims 4, 6, and 7 have been amended to correct their dependency. Claims 12 and 16-18 have been canceled.

An affidavit under 37 CFR 1.131 is supplied to show that subject matter disclosed and now claimed in the present application was reduced to practice and successfully tested for compliance with its intended purpose in August, 2000, before the effective date, April 24, 2001, of the reference upon which a 35 USC § 102(e) rejection has been made. Appendices A-D are included as integral with such affidavit. Because the joint inventors reside in three different states, it was necessary to have three identical affidavits executed.

***Claim Rejections – 35 USC § 102***

Claims 1-12 and 16-18 are rejected under 35 USC §102, as being anticipated by Gebrian et al (US 2002/0155590), which discloses a broth container and a broth canister. An affidavit under 37 CFR 1.131 by the inventors is included with this communication to show that subject matter disclosed and now claimed in the instant application was actually reduced to and successfully tested for achieving its intended purpose before the effective date of US 2002/0155590. Consequently, paragraph (e) of 35 USC§102 cannot be applied to the instant application because the present invention was not described in an application for patent and published before the instant invention was constructively reduced to practice and successfully tested for achieving its intended purpose. It is thus believed that the rejection under paragraph (e) of 35 USC § 102 is improper and it is respectfully requested that the rejection be withdrawn.

*Conclusion*

Applicant believes that this application contains patentable subject matter and that the foregoing amendments and explanation provide a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicant's representative at the number provided below.

Respectfully submitted,



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